

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

In re:
ZETIA (EZETIMIBE) ANTITRUST
LITIGATION

MDL No. 2:18-md-2836

THIS DOCUMENT RELATES TO
ALL ACTIONS

**DECLARATION OF CHRISTOPHER D. DUSSEAUT IN SUPPORT OF
DEFENDANTS' OPPOSITION TO DIRECT PURCHASER PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION**

I, Christopher D. Dusseault, declare as follows:

1. I am an attorney admitted to practice in the State of California. I am a partner at the law firm of Gibson, Dunn & Crutcher LLP, and I am admitted *pro hac vice* in the above-captioned action representing Defendants Merck & Co., Inc., Merck Sharp & Dohme Corp., Schering-Plough Corp., Schering Corp., and MSP Singapore Co. LLC (collectively, "Merck"). I am over the age of 18 and make this declaration based upon my personal knowledge in support of Defendants' Opposition to Direct Purchaser Plaintiffs' Motion for Class Certification.

2. Attached hereto as Exhibit 1 is a true and correct copy of the damages report of [REDACTED] served on January 13, 2020.

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the deposition of [REDACTED]

[REDACTED].

4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the deposition of [REDACTED]

[REDACTED].

5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the deposition of [REDACTED].

6. Attached hereto as Exhibit 5 are true and correct copies of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED], respectively.

7. Attached hereto as Exhibit 6 is a true and correct copy of [REDACTED]

[REDACTED]

[REDACTED].

8. Attached hereto as Exhibit 7 is a true and correct copy of [REDACTED]

[REDACTED]

[REDACTED].

9. Attached hereto as Exhibit 8 are true and correct copies of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

10. Attached hereto as Exhibit 9 is a true and correct copy of an article titled *Labaton Agrees to Pay \$4.8M to Settle Special Master's Overbilling Inquiry*, Law.com (Oct. 10, 2018), available at <https://www.law.com/2018/10/10/labaton-agrees-to-pay-4-8m-to-settlespecial-masters-public-corruption-inquiry/>.

11. Attached hereto as Exhibit 10 is a true and correct copy of an article titled *Report Railing Against Lawyers' Conduct in State Street Case 'Unmoored,' Says Labaton*, The American Lawyer (June 29, 2018), available at <https://www.law.com/americanlawyer/2018/06/29/report-railing-against-lawyers-conduct-instate-street-case-unmoored-says-labaton/>.

12. Attached hereto as Exhibit 11 is a true and correct copy of a press release published by the U.S. Attorney's Office for the Southern District of New York titled "Manhattan U.S. Attorney and DEA Announce Charges Against Rochester Drug Co-Operative and Two Executives for Unlawfully Distributing Controlled Substances," dated April 23, 2019 and available at <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-and-dea-announcecharges-against-rochester-drug-co-operative-and>.

13. Attached hereto as Exhibit 12 is a true and correct copy of the U.S. Department of Justice's Deferred Prosecution Agreement with Rochester Drug Co-Operative and Exhibits, dated April 22, 2019 and available at <https://www.justice.gov/usao-sdny/pressrelease/file/1156381/download>.

14. Attached hereto as Exhibit 13 is a true and correct copy of the Indictment in *United States v. Laurence F. Doud III*, available at <https://www.justice.gov/usao-sdny/pressrelease/file/1156386/download>.

15. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the deposition of [REDACTED]

[REDACTED].

16. Attached hereto as Exhibit 15 is a true and correct copy of [REDACTED]

[REDACTED].

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 20, 2020

A handwritten signature in blue ink, appearing to read "Chris D. Dusseault", is positioned above a horizontal line.

Christopher D. Dusseault

Dated: January 20, 2020

Respectfully submitted,

/s/ Stephen E. Noona

Stephen E. Noona
Virginia State Bar No. 25367
KAUFMAN & CANOLES, P.C.
150 W. Main Street, Suite 2100
Norfolk, VA 23510-1665
Telephone: (757) 624-3239
Facsimile: (888) 360-9092
senoona@kaufcan.com

Samuel G. Liversidge (*pro hac vice*)
Christopher D. Dusseault (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: (213) 229-7855
Facsimile: (213) 229-6855
SLiversidge@gibsondunn.com
CDusseault@gibsondunn.com

Veronica S. Lewis (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
2001 Ross Ave. Ste. 2100
Dallas, TX 75201-2997
Telephone: (214) 698-3320
Facsimile: (214) 571-2936
VLewis@gibsondunn.com

Eric J. Stock (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, NY 10166
Telephone: (212) 351-2301
Facsimile: (212) 716-0801
estock@gibsondunn.com

Jennifer K. Bracht (*pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1801 California Street, #4200
Denver, CO 80202
Telephone: (303) 298-5737
Facsimile: (303) 313-2848

jbracht@gibsondunn.com

Tarek Ismail (*pro hac vice*)
Jennifer L. Greenblatt (*pro hac vice*)
GOLDMAN ISMAIL TOMASELLI BRENNAN & BAUM
LLP
200 South Whacker Drive, 22nd Floor
Chicago, IL 60606
Telephone: (312) 681-6000
Facsimile: (312) 881-5191
tismail@goldmanismail.com
jgreenblatt@goldmanismail.com

*Counsel for Defendants Merck & Co., Inc.; Merck
Sharp & Dohme Corp.; Schering-Plough Corp.;
Schering Corp. and MSP Singapore Co. LLC*

/s/ Richard H. Ottinger
Richard H. Ottinger (VSB No.: 38842)
Dustin M. Paul (VSB No.: 75287)
Jennifer L. Eaton (VSB No.: 87491)
VANDEVENTER BLACK LLP
101 West Main Street, Suite 500
Norfolk, VA 23510
Telephone: (757) 446-8600
Facsimile: (757) 446-8670
rottinger@vanblacklaw.com
dpaul@vanblacklaw.com
jeaton@vanblacklaw.com

Steven A. Reed (admitted *pro hac vice*)
R. Brendan Fee (admitted *pro hac vice*)
Zachary M. Johns (admitted *pro hac vice*)
Jessica J. Taticchi (admitted *pro hac vice*)
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103
Telephone: (215) 963-5000
Facsimile: (215) 963-5001
steven.reed@morganlewis.com
brendan.fee@morganlewis.com
zachary.johns@morganlewis.com
jessica.taticchi@morganlewis.com

Stacey Anne Mahoney (admitted *pro hac vice*)
MORGAN, LEWIS & BOCKIUS LLP
101 Park Ave.
New York, NY 10178
Telephone: (212) 309-6000
Facsimile: (212) 309-6001
stacey.mahoney@morganlewis.com

*Counsel for Defendants
Glenmark Pharmaceuticals Ltd. and
Glenmark Pharmaceuticals Inc., USA,
incorrectly identified as Glenmark Generics Inc.,
USA*

CERTIFICATE OF SERVICE

I hereby certify that on January 20, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send an email notification of such filing to all counsel of record who have filed an appearance.

/s/ Stephen E. Noona
Stephen E. Noona
Virginia State Bar No. 25367
KAUFMAN & CANOLES, P.C.
150 W. Main Street, Suite 2100
Norfolk, VA 23510-1665
Telephone: (757) 624-3239
Facsimile: (888) 360-9092
senoona@kaufcan.com

*Counsel for Defendants Merck & Co., Inc.; Merck
Sharp & Dohme Corp.; Schering-Plough Corp.;
Schering Corp. and MSP Singapore Co. LLC*